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November 13, 2006

Federal Election Commission
999 E Street, NW
Washington, DC 20463
Attention: Jeff S. Jordan

Re: MUR 5852

To whom it may concern:

On behalf of the Detroit Economic Club (the "DEC"), we are writing in response to the above-referenced complaint relating to a request by David Sole, Green Party candidate for U.S. Senate in Michigan, to be included in a senatorial debate hosted by the DEC on October 18, 2006. Using pre-determined, objective criteria including constitutional eligibility, ballot access and demonstration of significant voter interest and support, the DEC decided not to include in the debate those candidates who did not satisfy these criteria.

From time to time, the DEC stages debates for candidates for federal and state office. The goal of the DEC's debates is to afford DEC members and the public an opportunity to sharpen their views, in a focused debate format, of candidates for elective office.

The DEC's activities are conducted in accordance with all applicable legal requirements, including, in the case of candidates for federal office, regulations of the Federal Election Commission ("FEC"). Federal election rules allow the DEC to stage candidate debates without including all candidates to a particular office. Section 110.13 of Title 11 of the Federal Code of Regulations provides as follows:

(a) Staging organizations. (1) Nonprofit organizations described in 26 U.S.C. 501 (c)(3) or (c)(4) and which do not endorse, support, or oppose political candidates or political parties may stage candidate debates in accordance with this section and 11 CFR 114.4(f).

(b) Debate structure. The structure of debates staged in accordance with this section and 11 CFR 114.4(f) is left to the discretion of the staging organizations(s), provided that:

(1) Such debates include at least two candidates; and

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(2) The staging organization(s) does not structure the debates to promote or advance one candidate over another.

(c) Criteria for candidate selection. For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organizations(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate.

Consistent with these rules, the DEC is a 501(c)(3) nonprofit organization which does not endorse, support, or oppose political candidates or political parties. It does not structure its debates to promote or advance one candidate over another.

The DEC has also developed nonpartisan, objective criteria upon which it will base its decisions regarding selection of the candidates to participate in its debates, all of which must be satisfied before a candidate will be invited to debate. These criteria include:

constitutional eligibility -- the DEC insists that the candidate meet the requirements of the Michigan Constitution and the Constitution of the United States, as applicable.

ballot access and demonstration of significant voter interest and support -- the DEC insists that the candidate meet all requirements to be on the ballot according to State of Michigan Election Laws.

demonstration of significant voter interest and support -- the DEC insists that the candidate have a significant level of support of the electorate in the state or district in which the candidate is running as determined by independent, non-partisan, generally-recognized and reliable public opinion polling organizations. In addition, the candidate must have measurable financial support.

FEC rulings provide support for these criteria. In *In re Hampden-Sydney College*, June 11, 2003, an independent candidate for U.S. Congress was excluded from a debate held at a college that was a Section 501(c)(3) organization. The FEC found that the college complied with the debate regulations "given that it relied upon objectively measurable information, including campaign fundraising totals disclosed in FEC reports, press coverage, and the lack of a campaign organization to conclude that [the independent candidate] should not be invited to the debate." In this case, the independent candidate, according to FEC reports, did not receive a single contribution from any person. The FEC further remarked that the candidate was not regarded as a serious candidate by the press covering the election.

A search of FEC filings prior to the debate indicated that candidate David Sole had not even organized a candidate committee as required by federal law for candidates who have raised \$5,000 or more. Google and Nexis searches found no press coverage of candidate Sole's

campaign other than simple references to the fact that he is a candidate or to poll results showing little, if any, support for his campaign among voters.

Thus, based on the objective criteria of lack of financial support and serious press coverage, the DEC met the standards described in *In re Hampden Sydney College* in excluding candidate David Sole from its senatorial debate.

The FEC further advised in notice 1995-23 regarding 11 CFR 110 and its transmittal to Congress (December 14, 1995) that:

The objective criteria may be set to control the number of candidates participating in a debate if the staging organization believes there are too many candidates to conduct a meaningful debate.

In accordance with these rules, time limits and other constraints prevented the DEC from holding a meaningful debate involving all of the five candidates running for U.S. Senate in Michigan.

Accordingly, the DEC's decision to exclude candidate David Sole met the requirements of the FEC. Please do not hesitate to contact us with any further questions or comments regarding this matter.

Respectfully submitted,

CLARK HILL PLC



Andrew C. Richner

ACR:dem
Enclosures

cc: Ms. Beth Chappell
Mr. Steve Grigorian
(Detroit Economic Club)

Mr. Duane Tarnacki



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999 E Street, NW
Washington, DC 20463STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Client
FAX (202) 219-3923MUR # 5852NAME OF COUNSEL: ANDREW RICHERFIRM: CLARK HILL PLCADDRESS: 500 WOODWARD, SUITE 3500DETROIT, MI 48226TELEPHONE- OFFICE (313) 965-8531FAX (313) 965-8252

The above-named individual and/or firm is hereby designated as my
counsel and is authorized to receive any notifications and other communications
from the Commission and to act on my behalf before the Commission.

11/13/06
DateStephen A. Cing
Respondent/ Client SignatureCHIEF OPERATING OFFICER
TitleRESPONDENT/CLIENT Detroit Economic Club
(Please Print)MAILING ADDRESS: 211 W. FORT STREET SUITE 505DETROIT, MI 48226TELEPHONE- HOME 243BUSINESS (313) 963-8577

Information is being sought as part of an investigation being conducted by the Federal Election
Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section
prohibits making public any investigation conducted by the Federal Election Commission without
the express written consent of the person under investigation